



## State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT  
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JON S. CORZINE  
*Governor*

DAVID J. SOCOLOW  
*Acting Commissioner*

### MEMORANDUM

April 3, 2006

To: All Judges and Attorneys

From: Peter J. Calderone, Director and Chief Judge

Subject: Child Support Liens

Attached please find relevant portions of an opinion recently issued by Supervising Judge Robert J. Butler in DeJesus v. Joffe Lumber, which was decided on transfer to the Workers' Compensation Court from the Superior Court, Appellate Division. Specifically, Judge Butler was asked to review and determine whether the practice of setting child support lien payments in workers' compensation cases based on the federal garnishment statute was correct. Since this practice was established on direction and advice from the Administrative Office of the Courts ("AOC"), the judiciary participated in the proceedings before Judge Butler.

Judge Butler found that the federal garnishment statute only applies to wage replacement in workers' compensation cases. Therefore, he reasoned that payment of permanent partial disability which represents benefits for functional loss would not be covered by the federal law. However, he found that temporary total disability payments were wage replacement and therefore subject to the garnishment formulas.

Based on Judge Butler's opinion, which is supported by the AOC, we are implementing the following policy which will replace prior information and directives concerning child support liens:

1. In resolving permanent partial disability claims whether by judgment, order approving settlement or Section 20, the petitioner receives, after all allowances are paid, the first two thousand (\$2000.00) of benefits without any deduction for a child support lien. If there are additional monies beyond \$2000.00, the child support lien is paid in full up to the amount of the benefits. Any monies beyond the payment of the lien would then be paid to the petitioner.

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2. Where there is a child support lien and temporary total disability is being paid pursuant to an order, the federal garnishment statute is applied after any applicable allowances are deducted. There is no \$2000.00 threshold and the whole amount is subject to the lien. The garnishment formula is the same as that set forth in the current child support lien worksheet and order.
3. As Judge Butler notes, the issue of child support liens in total permanent disability situations was not before the court. The AOC has taken the position that total permanent disability awards for child support lien purposes should be treated similar to permanent partial disability cases as outlined in 1 above (\$2000.00 threshold and then full lien paid before additional monies to petitioner). It is suggested that we follow this direction and advice from the AOC until there are further judicial determinations on this matter.

We appreciate Judge Butler's fully researched and reasoned opinion on the child support lien issues.

Attachment